

Application No. 10/070,817  
Reply to Office Action of June 18, 2003

Group VII: Claims 11, drawn to ointments or pastes; and

Group VIII: Claim 12, drawn to a process of sterilizing water.

In addition, the Examiner has required an election of Species of polyurethane, polyolefin, polyethylene, polypropylene, polysiloxane, polystyrene, polyacrylate, polymethylmethacrylate, PVC, polyamide and polyterephthalate.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

The Office, citing PCT Rule 13.1 and 13.2, contends that Groups I-VIII do not relate to a single general inventive concept because they lack the same or corresponding special technical feature which defines an advance over the prior art. Applicants note that the Office merely cites U.S. Patent 4,389,502 (Fry), and states that "blends of polymethyl methacrylate and a polymer prepared from t-butylaminoethyl methacrylate are old in the art" but has not provided any explanation to support the position that the special technical feature does not establish an advance over the prior art. Accordingly, the assertion made by the Office is without merit and must be withdrawn.

Applicants further traverse the Restriction Requirement on the additional ground that a search of all the claims would not impose a serious burden on the Office.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP §808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

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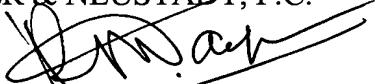
With respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction and Election of Species. Withdrawal of the Requirement for Restriction and Election of Species is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited

Respectfully submitted,

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